
From: Jonathan Bright
Sent: Saturday, January 4, 2025 4:41 PM
To: jwietholter@raklaw.com
Cc: jpickens@raklaw.com; rak_headwater@raklaw.com; [SERVICE FR] Samsung-Headwater; qe-headwater103@quinnemanuel.com
Subject: RE: Headwater v. Samsung-103: Headwater's Final Election of Claims

Jason – As mentioned, it is our position that Headwater was required to elect its final claims yesterday. We are unaware of any authority excusing a lower ordered case from the election deadline for any of the reasons you identify. We thus cannot join a motion to extend Headwater's deadline.

Based on your response, we understand Headwater opposes Samsung's motion to extend its deadline to elect final invalidity theories, although we disagree with any suggestion that our motion is an attempt to obtain an improper advantage. Please provide your availability for a conference by Monday to confer per LR 7(h).

Thanks,

Jonathan

From: Jason Wietholter <jwietholter@raklaw.com>
Sent: Friday, January 3, 2025 10:45 PM
To: Jonathan Bright <jbright@fr.com>
Cc: jpickens@raklaw.com; rak_headwater@raklaw.com; [SERVICE FR] Samsung-Headwater <SERVICEFRSamsung-Headwater@fr.com>; qe-headwater103@quinnemanuel.com
Subject: Re: Headwater v. Samsung-103: Headwater's Final Election of Claims

Jonathan,

Given Judge Payne's comments at the pretrial conference, the forthcoming rulings on *Daubert* motions and dispositive motions, and the Court's denial of Samsung's motion to continue the -422 trial which "ORDERED that the trial in [the -422] case proceed as currently scheduled with jury selection to begin on January 13, 2025" (*Headwater v. Samsung*, Case No. 22-cv-422, Dkt. No. 473), it is clear that the -103 trial will not take place January 13, 2025. Samsung's insistence that Headwater must disclose its final election of claims today is unfounded.

We are amenable to enter a joint motion to mutually extend the parties' deadlines in an effort to resolve the issue. However, Headwater opposes any motion by Samsung to attempt to extract an advantage from an election by Headwater as Samsung did in the -422 case - a tactic the Court noted "played out last time ... to [Samsung's] benefit," but should not "work out to [Headwater's] detriment." *Headwater v. Samsung*, Case No. 22-cv-422, 11/18/24 PTC Transcript at 56.

Alternatively, Headwater will agree not to oppose Samsung's motion if Samsung agrees to not oppose a similar motion from Headwater.

Regards,

Jason Wietholter

Russ, August & Kabat

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On Jan 3, 2025, at 6:19 PM, Jonathan Bright <jbright@fr.com> wrote:

Jason,

We disagree that Headwater is excused from its obligation to elect claims tonight. As you know, the Court set jury selection for the -103 case for January 13th and has not released the -103 case from that date. We are aware of no rule excusing plaintiffs from identifying their final claims by the prescribed deadline because they expect a higher ordered case (like -422) will go first. As such, we cannot join any motion to extend Headwater's deadline to elect its claims.

At the same time, Headwater's refusal to elect claims frustrates Samsung's ability to elect its invalidity theories. We therefore reiterate our request for Headwater's position on whether Headwater will oppose Samsung's request to extend the deadline to elect invalidity theories.

Best,

Jonathan

From: Jason Wietholter <jwietholter@raklaw.com>

Sent: Friday, January 3, 2025 8:53 PM

To: Jonathan Bright <jbright@fr.com>

Cc: jpickens@raklaw.com; rak_headwater@raklaw.com; [SERVICE FR] Samsung-Headwater <SERVICEFRSamsung-Headwater@fr.com>; qe-headwater103@quinnemanuel.com

Subject: Re: Headwater v. Samsung-103: Headwater's Final Election of Claims

Jonathan,

Headwater proposes that the parties file a joint motion to extend the parties' respective election deadlines given the circumstances we identified previously. Please provide a draft motion so that Headwater may provide input.

Regards,

Jason Wietholter

Russ, August & Kabat

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On Jan 3, 2025, at 4:32 PM, Jonathan Bright <jbright@fr.com> wrote:

James,

Samsung intends to seek an extension on the deadline for the Final Election of Prior Art on the basis that Headwater will not be serving its Final Election of Claims as required by the Court. Please let us know by 730 CT tonight if Headwater decides to serve its Final Election of Claims today. If Headwater chooses not to serve its final election today, please confirm that Headwater will not oppose our motion to extend the deadline for the Final Election of Prior Art.

Best,

Jonathan

From: James Pickens <jpickens@raklaw.com>

Sent: Friday, January 3, 2025 2:21 PM

To: Jonathan Bright <jbright@fr.com>

Cc: rak_headwater@raklaw.com; [SERVICE FR] Samsung-Headwater <SERVICEFRSamsung-Headwater@fr.com>; ge-headwater103@quinnemanuel.com

Subject: Re: Headwater v. Samsung-103: Headwater's Final Election of Claims

[This email originated outside of F&R.]

Jonathan,

As recognized at the Pretrial Conference in this case, trial and jury selection is not going forward on Jan. 13 in the -103 case, since trial and jury selection in the -422 case is going forward on that date. Headwater's position is that exchanging final election of claims is therefore premature. Moreover, the Court's rulings on pending motions to strike and motions for summary judgment are pending, which has the potential to significantly narrow the case.

Regards,

James

James Pickens

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On Jan 2, 2025, at 10:07 PM, Jonathan Bright <jbright@fr.com> wrote:

Counsel –

Please confirm that Headwater will provide its final election of asserted claims by the deadline tomorrow Friday, January 3rd.

Best,

Jonathan

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